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BOARD MEETING
STATE OF CALIFORNIA
INTEGRATED WASTE MANAGEMENT BOARD

JOE SERNA, JR., CAL/EPA BUILDING
1001 I STREET
2ND FLOOR
BYRON SHER AUDITORIUM
SACRAMENTO, CALIFORNIA

TUESDAY, JUNE 17, 2008
9:34 A.M.

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APPEARANCES

BOARD MEMBERS

Ms. Margo Reid Brown, Chair

Mr. Wesley Chesbro

Ms. Rosalie Mul

Ms. Cheryl Peace

Mr. Gary Petersen

STAFF

Mr. Mark Leary, Executive Director

Ms. Julie Nauman, Chief Executive Director

Mr. Elliot Block, Chief Counsel

Ms. Kristen Garner, Executive Assistant

Mr. Howard Levenson, Deputy Director, Permitting and
Enforcement Division

Mr. Steven Levine, Staff Counsel

Mr. Bill Orr, Chief, Cleanup Closure and Financial
Assurances Division

Mr. Trevor O'Shaughnessy, Supervisor, Jurisdiction
Compliance & Audit

Mr. Ted Rauh, Program Director, Waste Compliance and
Mitigation Program

ALSO PRESENT

Mr. Glenn Acosta, Sanitation Districts of L.A. County

Mr. Chuck Helget, Allied Waste

Mr. Fred Pfaeffle, Sunshine Canyon Landfill

Mr. Wayne Tsuda, City of L.A.

Mr. Chuck White, Waste Management

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1 PROCEEDINGS

2 CHAIRPERSON BROWN: Good morning, everybody.

3 We're going to go ahead and start this morning. Everybody
4 is ready. Like to call this June 17th meeting of the
5 Integrated Waste Management Board to order.

6 And ask Kristen to please call the roll.

7 EXECUTIVE ASSISTANT GARNER: Chesbro?

8 BOARD MEMBER CHESBRO: Here.

9 EXECUTIVE ASSISTANT GARNER: Mulé?

10 BOARD MEMBER MULÉ: Here.

11 EXECUTIVE ASSISTANT GARNER: Peace?

12 BOARD MEMBER PEACE: Here.

13 EXECUTIVE ASSISTANT GARNER: Petersen?

14 BOARD MEMBER PETERSEN: Here.

15 EXECUTIVE ASSISTANT GARNER: Brown?

16 CHAIRPERSON BROWN: Here.

17 Any ex partes to report?

18 BOARD MEMBER MULÉ: Up to date.

19 BOARD MEMBER PEACE: Up to date.

20 CHAIRPERSON BROWN: Seems everybody is up to
21 date.

22 I'd like to remind our guests in the audience to
23 turn their cell phones to the vibrate mode.

24 Speaker slips are located at the table in the
25 back of the room along with agendas.

1 The Board will hold a closed session at the
2 conclusion of our regular business.

3 And I'd like to ask everybody the stand for the
4 Pledge of Allegiance.

5 (Thereupon the Pledge of Allegiance was recited
6 in unison.)

7 CHAIRPERSON BROWN: And I did want to make one
8 quick announcement. I don't know if I'm stepping on your
9 toes, Mark. But I wanted to send out a special thank you
10 to the Water Board who this month voted an allocation of
11 one million dollars directed towards our Education and the
12 Environment Initiative. So very supportive from our
13 fellow BDO.

14 And with that, any other announcements? I'll
15 move to the Executive Director's report.

16 EXECUTIVE DIRECTOR LEARY: Thank you, Madam
17 Chair. And good morning, members.

18 Piggy-backing on that announcement -- I hadn't
19 thought of that, so thank you for that. But also reminds
20 me that little OEHHA is put together some end of year
21 money in support of EEI. So I think we're expecting a
22 contribution somewhere in the neighborhood of \$100,000
23 from OEHHA, which as we know doesn't have a lot of budget
24 to spare. But scraped together some money to help us out.
25 That continues to garner the support as you suggest, Madam

1 Chair, from all the BDOs.

2 There's only one item I had just to remind us
3 all, the fire season is upon us. As we approach the
4 anniversary of the Board's successful involvement in the
5 Angora fire, we're rudely reminded that fire season
6 started early this year. Ted and his staff were working
7 very closely with Butte County folks, the LEA, and others
8 in response to the Humboldt fire. There will be demands
9 on our staff to implement what has come to be known as the
10 Angora model throughout the state and consolidation debris
11 removal efforts into one entity that was so successful in
12 Angora and continues to be emulated around the state. And
13 we continue to lend our support and effort.

14 So if Ted and Howard and their crews are a little
15 distracted from time to time over the next four or five
16 months, it might be in part related to the fire response.

17 And with that Madam Chair, I conclude my remarks.

18 CHAIRPERSON BROWN: Thank you, Mark.

19 We'll move now to the Board agenda.

20 Items 1 revised, 2 revised, 3, 6, 13 revised, 17
21 and 21 are on consent.

22 We will then take up items 4, 5, 7, 12 revised,
23 17, 18 revised, 19 revised, 20 revised as part of our
24 fiscal consent.

25 Items 10, 11, and 16 were heard in Committee

1 only.

2 There were no items pulled.

3 And we will hear Item 8 revised, 9, 15, and 22 by
4 the full Board. And depending on when we begin, we may
5 take those out of order.

6 So are there any other items on the consent
7 agenda that any members wish to pull?

8 BOARD MEMBER CHESBRO: Madam Chair, I'll move the
9 consent agenda.

10 BOARD MEMBER MULÉ: Second.

11 CHAIRPERSON BROW: It's been moved by Member
12 Chesbro and seconded by Member Mulé.

13 Kristen, can you call the roll?

14 EXECUTIVE ASSISTANT GARNER: Chesbro?

15 BOARD MEMBER CHESBRO: Aye.

16 EXECUTIVE ASSISTANT GARNER: Mulé?

17 BOARD MEMBER MULÉ: Aye.

18 EXECUTIVE ASSISTANT GARNER: Peace?

19 BOARD MEMBER PEACE: Aye.

20 EXECUTIVE ASSISTANT GARNER: Petersen?

21 BOARD MEMBER PETERSEN: Aye.

22 EXECUTIVE ASSISTANT GARNER: Brown?

23 CHAIRPERSON BROWN: Aye.

24 The consent agenda passes.

25 We'll move next to fiscal consent, and we'll

1 start with Item 4 and presentation by Ted.

2 PROGRAM DIRECTOR RAUH: Yes, good morning, Chair
3 Brown and Board members. I'm Ted Rauh, Program Director
4 for Waste Compliance and mitigation.

5 This item requests the California Integrated
6 Waste Management Board's approval of eight grants,
7 including the Imperial County pilot project, totaling
8 \$455,265 for the fourth quarter of fiscal year 2007-08 for
9 Farm and Ranch Solid Waste Cleanup and Abatement Program
10 activities.

11 We recommend that the Board adopt resolution
12 number 2008-108 and Resolution Number 2008-109.

13 CHAIRPERSON BROWN: Thank you, Ted.

14 Any questions on Item 4?

15 BOARD MEMBER MULÉ: Can we move both of these at
16 once, Elliot?

17 CHIEF COUNSEL BLOCK: Yes.

18 BOARD MEMBER MULÉ: I'd like to move Resolutions
19 2008-108 and 109.

20 BOARD MEMBER CHESBRO: Second.

21 CHAIRPERSON BROWN: It's been moved by Member
22 Mulé, seconded by Member Chesbro.

23 Kristen, can you call the roll?

24 EXECUTIVE ASSISTANT GARNER: Chesbro?

25 BOARD MEMBER CHESBRO: Aye.

1 EXECUTIVE ASSISTANT GARNER: Mulé?

2 BOARD MEMBER MULÉ: Aye.

3 EXECUTIVE ASSISTANT GARNER: Peace?

4 BOARD MEMBER PEACE: Aye.

5 EXECUTIVE ASSISTANT GARNER: Petersen?

6 BOARD MEMBER PETERSEN: Aye.

7 EXECUTIVE ASSISTANT GARNER: Brown?

8 CHAIRPERSON BROWN: Aye?

9 Item 4 passes.

10 Ted, Item 5.

11 PROGRAM DIRECTOR RAUH: Item 5 is Consideration
12 of an Allocation from the Solid Waste Disposal Trust Fund
13 and the Approval of Three Grant Awards Totaling \$931,600
14 for Solid Waste Disposal and Co-Disposal Site Cleanup
15 Program Activities.

16 Staff recommends adoption of Resolution 2008-101.

17 CHAIRPERSON BROWN: Any questions?

18 BOARD MEMBER MULÉ: Madam Chair, I'd like to move
19 Resolution 2008-101.

20 BOARD MEMBER CHESBRO: Second.

21 CHAIRPERSON BROWN: It's been moved by Member
22 Mulé, seconded by Member Chesbro.

23 Without objection, we can substitute the previous
24 roll.

25 Move to Item 7.

1 PROGRAM DIRECTOR RAUH: Item 7 is consideration
2 of two new Board-managed projects totaling \$335,600 for
3 Solid Waste Disposal and Co-Disposal Site Cleanup Program.

4 Staff recommends adoption of Resolution Number
5 2008-103.

6 CHAIRPERSON BROWN: Any questions?

7 BOARD MEMBER MULÉ: Madam Chair, I'd like to move
8 the resolution.

9 BOARD MEMBER CHESBRO: Second.

10 CHAIRPERSON BROWN: It's been moved by Member
11 Mulé, seconded by Member Chesbro.

12 Without objection, we can substitute the previous
13 roll.

14 Howard, Item 12.

15 PROGRAM DIRECTOR LEVENSON: Thank you, Madam
16 Chair. Howard Levenson with the Sustainability Program.

17 Item 12 is consideration of adjustments to the
18 e-waste recycling fee to maintain the solvency of the
19 E-Waste Recovery and Recycling Account.

20 As you know, we had a good discussion of this at
21 the Committee. And staff is recommending that the Board
22 approve Option 1 which would set the fee as follows for
23 the record: \$8 for each covered electronic device with a
24 screen size greater than 4 inches but less than 15 inches
25 measured diagonally; \$15 for each device with a screen

1 size greater than or equal to 15 inches but less than 35
2 inches; and \$25 for each covered device with a screen size
3 greater than or equal to 35 inches.

4 BOARD MEMBER PEACE: Excuse me, Howard. Did you
5 say 15? I thought it was changed to 16.

6 PROGRAM DIRECTOR LEVENSON: \$25 for the third
7 category.

8 BOARD MEMBER MULÉ: The second category.

9 BOARD MEMBER PEACE: The second category I think
10 you said 15. I thought we revised that had to 16. Am I
11 wrong?

12 CHAIRPERSON BROWN: In the revised, it's 16.

13 PROGRAM DIRECTOR LEVENSON: My mistake, \$16. I
14 apologize.

15 CHAIRPERSON BROWN: Wow, Cheryl. Good. Every
16 dollar, that could be a huge difference as we know from
17 our previous presentation.

18 PROGRAM DIRECTOR LEVENSON: That will teach me to
19 read it into the record.

20 So staff recommends that the Board adopt
21 Resolution 2008-96 and direct staff to prepare emergency
22 regulations to enact the new fee.

23 BOARD MEMBER MULÉ: Madam Chair.

24 CHAIRPERSON BROWN: Are there any questions?

25 BOARD MEMBER MULÉ: I'd like to move the

1 resolution.

2 CHAIRPERSON BROWN: Is there a second?

3 BOARD MEMBER PEACE: Second.

4 CHAIRPERSON BROWN: Been moved by Member Mulé and
5 seconded by Member Peace.

6 Without objection, we can substitute the previous
7 roll.

8 Okay. Sorry, Howard. Mark, Item 14.

9 EXECUTIVE DIRECTOR LEARY: Item 14, Madam Chair,
10 is consideration of two allocation proposals to be
11 specific to be funded from the Integrated Waste Management
12 Account for next fiscal year 2008/2009. The two proposals
13 are in support of strategic directive 4.2 and 8.4 having
14 to do with the Board regulator programs. Each are for
15 \$150,000 for a total of \$300,000.

16 And with that, Madam Chair, I would seek your
17 support of Resolution 2008-115.

18 CHAIRPERSON BROWN: How about 114 and 115?

19 EXECUTIVE DIRECTOR LEARY: That works, too.

20 CHAIRPERSON BROWN: I got a cheat sheet. Any
21 questions?

22 BOARD MEMBER MULÉ: Madam Chair, I'd like to move
23 Resolution 2008-114 and 115.

24 BOARD MEMBER PEACE: Second.

25 CHAIRPERSON BROWN: It's been moved by Member

1 Mulé, seconded my Member Peace.

2 Without objection, we can substitute the previous
3 roll.

4 We can move next to Howard, Item 18.

5 PROGRAM DIRECTOR LEVENSON: Item 18 is
6 Consideration of the Grant Award for the targeted RAC
7 Incentive Grant Program.

8 Staff is recommending that the Board consider and
9 approve one grant for a total of \$141,500. And we
10 recommend that the Board adopt Resolution 2008-93 Revised.

11 CHAIRPERSON BROWN: Any questions?

12 BOARD MEMBER PETERSEN: Madam Chair, I'd like to
13 move Resolution 2008-93 Revised.

14 BOARD MEMBER MULÉ: Second.

15 CHAIRPERSON BROWN: It's been moved by Member
16 Petersen, seconded by Member Mulé. Without objection, we
17 can substitute the previous roll.

18 Howard, Item 19.

19 PROGRAM DIRECTOR LEVENSON: Item 19 is the grant
20 awards for the RAC Use Grants. We have ten applications,
21 and the funding would total \$657,733.

22 Staff recommends that the Board adopt Resolution
23 2008-94 Revised.

24 CHAIRPERSON BROWN: Any questions?

25 BOARD MEMBER PETERSEN: Madam Chair, I'd like to

1 move Resolution 2008-94 revised.

2 BOARD MEMBER MULÉ: Second.

3 CHAIRPERSON BROWN: It's been moved by Member
4 Petersen and seconded by Member Mulé.

5 Without objection, we'll substitute the previous
6 roll and move to Item 20.

7 PROGRAM DIRECTOR LEVENSON: Item 20 is the third
8 set in our RAC grants. This is the grant award for the
9 RAC chip seal grants. We received 16 applications for a
10 total with both lists of \$1,483,408. We recommend that
11 you adopt Resolution 2008-95 Revision number two.

12 CHAIRPERSON BROWN: Any questions regarding this
13 item?

14 BOARD MEMBER PETERSEN: Madam Chair, I'd like to
15 move Resolution 2008-95 Revision Two.

16 BOARD MEMBER MULÉ: Second.

17 CHAIRPERSON BROWN: It's been moved by Member
18 Petersen, seconded by Member Mulé.

19 Without objection, we can substitute the previous
20 roll.

21 And that concludes our fiscal consent items. I
22 will move to Committee Chair reports since we sort of
23 glossed over those as we breezed through the consent
24 calendar. Permit and Compliance Committee

25 BOARD MEMBER MULÉ: Thank you, Madam Chair. Yes,

1 I do. Thank you.

2 We heard four permits in our Committee. Three
3 are on consent, and one we will hear today.

4 And we did told a special meeting at the San
5 Fernando City Hall to hear the Sunshine Canyon landfill
6 permit. And all members of the Board were present. And I
7 want to thank everyone for making the trip down there to
8 be there. And again I just want to extend my thanks to
9 staff for all the work that you did on this highly
10 technical and somewhat controversial permit.

11 We also heard grant awards for the Farm and Ranch
12 Solid Waste Cleanup and Abatement Program, which we just
13 approved, grant awards for the Solid Waste Disposal and
14 Co-Disposal Site Cleanup Program, new projects for the
15 Solid Waste Disposal and Co-Disposal Site Cleanup
16 Programs.

17 We also in Committee only heard the scoring
18 criteria and approved evaluation process and scoring
19 criteria for the Farm and Ranch Grant Program.

20 And then today we will be hearing Item 8, which
21 is the proposed regulations for the at-store recycling
22 program for plastic carry-out bags.

23 And that concludes my report. Thank you, Madam
24 Chair.

25 CHAIRPERSON BROWN: Thank you, Member Mulé.

1 Member Petersen.

2 BOARD MEMBER PETERSEN: Thank you, Madam Chair.

3 The Market Development and Sustainability

4 Committee heard five items last week. And we just

5 approved 17 and 21.

6 Seventeen, which is pretty exciting, is what's

7 going on in commercial recycling arena and the cost study

8 on that, which I'm excited about.

9 Item 21 was the MOU with the Department of

10 General Services and Green Lodging Program.

11 Items 18, 19, and 20 were grants that we just

12 approved.

13 And Item 22 was moved to the full Board for its

14 consideration today.

15 CHAIRPERSON BROWN: Thank you. Okay. I guess

16 that takes us to full Board items. And we'll go first to

17 Item 8 then.

18 PROGRAM DIRECTOR RAUH: Thank you, Madam Chair.

19 Item 8 is Consideration of Adoption of the Proposed

20 Permanent Regulations for Recordkeeping and Reporting

21 Requirements for the At-Store Recycling Plastic Carry-Out

22 Bags Program. And here to present the item is Trevor.

23 SUPERVISOR O'SHAUGHNESSEY: Good morning, Madam

24 Chair and members of the Board. My name is Trevor

25 O'Shaughnessy of the Minimum Content and Compliance

1 Branch.

2 I'd like to begin the presentation by providing
3 some clarity regarding the attachments related to this
4 item. There should be three attachments in your packet.
5 The first is the proposed permanent regulations for
6 recordkeeping and reporting requirements for the At-Store
7 Recycling Program, or the Plastic Carry-Out Bag Program.
8 This copy does not have any strike out or underline
9 related to it.

10 Attachment 2 is Resolution 2008-113.

11 And Attachment 3 is the proposed revisions to the
12 At-Store Recycling Program regulations for an additional
13 15-day comment period. This attachment is related to
14 Option 3 should the Board elect to proceed with that
15 option.

16 With that clarity, I would like to proceed with
17 my brief presentation. The agenda item before you
18 requests that the Board adopt the proposed permanent
19 regulations regarding recordkeeping and reporting
20 requirements for the At-Store Recycling Program.

21 The proposed permanent regulations are designed
22 to impose a consistent statewide set of recordkeeping and
23 reporting standards on operators who might otherwise be
24 subject to disparate requirements by various local
25 jurisdictions.

1 During the 15-day public comment period, the
2 Board received comment letters signed by both the
3 California Grocers' Association and the California
4 Retailers' Association. The letter raised concerns about
5 language within the recordkeeping and reporting sections
6 of the regulations and how the new language would require
7 recordkeeping and reporting on individual store basis.

8 To address this concern, staff recommends that
9 the Board direct staff to include in the final Statement
10 of Reasons, otherwise known as the FSOR, for both
11 recordkeeping and reporting requirements the language
12 presented on page 3 of this agenda item to clarify the
13 intent of the regulations.

14 Staff has been in communication with both the
15 California Grocers' Association and the California
16 Retailers' Association and has received confirmation that
17 the added clarifying description in the Final Statement of
18 Reasons addresses their concerns.

19 Since the stakeholders concerns have been
20 addressed and staff is not aware of any other concerns
21 regarding this rulemaking package, staff recommends that
22 the Board adopt Option 2.

23 This concludes staff's presentation. I'm
24 available to address any questions. Thank you.

25 CHAIRPERSON BROWN: Thank you, Trevor. Any

1 questions regarding this item? Good job.

2 BOARD MEMBER MULÉ: Thanks, Trevor.

3 Madam Chair, I'd like to move Resolution 2008-113

4 Revised.

5 CHAIRPERSON BROWN: Revised.

6 BOARD MEMBER MULÉ: Revised.

7 BOARD MEMBER CHESBRO: Second.

8 CHAIRPERSON BROWN: It's been moved by Member

9 Mulé and seconded by Member Chesbro.

10 Kristen, can you call the roll on this?

11 EXECUTIVE ASSISTANT GARNER: Chesbro?

12 BOARD MEMBER CHESBRO: Aye.

13 EXECUTIVE ASSISTANT GARNER: Mulé?

14 BOARD MEMBER MULÉ: Aye.

15 EXECUTIVE ASSISTANT GARNER: Peace?

16 BOARD MEMBER PEACE: Aye.

17 EXECUTIVE ASSISTANT GARNER: Petersen?

18 BOARD MEMBER PETERSEN: Aye.

19 EXECUTIVE ASSISTANT GARNER: Brown?

20 CHAIRPERSON BROWN: Aye.

21 Resolution 2008-1113 Revised passes. Thank you

22 very much. Appreciate all your hard work on that and

23 process including our stakeholders.

24 And we'll move next to Item 9. Ted.

25 PROGRAM DIRECTOR RAUH: Thank you.

1 Item 9 is consideration of a new full solid waste
2 facilities permit for the Sunshine Canyon City/County
3 Landfill located in the city and county of Los Angeles.

4 The Board is acting as the solid waste
5 enforcement agency for the Sunshine County City/County
6 Landfill, because there is no single local enforcement
7 agency that has been certified by the Board to process a
8 permit application for this facility since it spans two
9 separate jurisdictions.

10 Today to present the item to you is Sue Markie.
11 Sue.

12 (Thereupon an overhead presentation was
13 presented as follows.)

14 SOUTH BRANCH PERMITTING & LEA SUPPORT MANAGER

15 MARKIE: Good morning, Madam Chair, Board members. This
16 item is for the consideration of the new full solid waste
17 facilities permit for the Sunshine Canyon City/County
18 Landfill located in Los Angeles County. The site is owned
19 and operated by Browning Ferris Industries of California,
20 Inc., BFI, a wholly owned subsidiary of Allied Waste
21 Industries, Inc.

22 The operators proposal is to combine the
23 currently existing Sunshine Canyon County extension
24 landfill facility number 19-AA-0853, which is within the
25 jurisdiction of the county of Los Angeles LEA with the

1 Sunshine Canyon City Landfill unit two, facility number
2 19-AR-0002, which is within the jurisdiction of the city
3 of Los Angeles LEA.

4 Pursuant to Public Resources Code Section 44090,
5 the Board has 60 calendar days to concur with or object to
6 the issuance of a full solid waste facilities permit.
7 Since the proposed solid waste facilities permit for this
8 facility was completed on May 6th, 2008, the last day the
9 Board could act would be July 5th, 2008.

10 This item was heard at a special Permitting and
11 Compliance Committee meeting held in San Fernando on June
12 12th, 2008. Changes to the agenda item since the
13 Committee meeting are in bold underline and include
14 beginning on page 9, b, environmental issues. Additional
15 language was added to clarify that Board staff as a
16 responsible agency is obligated to utilize the complete
17 California Environmental Quality Act record when
18 considering action on all or a portion of a project. The
19 Board will rely on all three of the environmental
20 documents specified in the agenda item.

21 Attachment 5A was added to include the Findings
22 of Fact and Statement of Overriding Considerations
23 November 2006 document.

24 A letter of support was received from the city of
25 Duarte. An e-mail of opposition was received by Wade

1 Hunter with North valley Coalition of Concerned Citizens,
2 Inc.

3 Board staff has concluded that all the
4 requirements have been fulfilled and Board staff
5 recommends that the Board adopt Board Resolution Number
6 2008-107 as revised adopting the California Environmental
7 Quality Act findings and Statements of Overriding
8 Considerations adopted by the lead agencies and concur in
9 the issuance of the proposed permit for the Sunshine
10 Canyon City/County Landfill, solid waste facilities permit
11 number 19-AA-2000.

12 Staff is available to answer any questions as
13 well as representatives with BFI, Allied Waste. Thank
14 you.

15 CHAIRPERSON BROWN: Thank you, Sue.

16 Any questions for staff?

17 We have a couple of speakers. The first speaker
18 is Wayne Tsuda.

19 MR. TSUDA: Thank you, Board members. My name is
20 Wayne Tsuda. And I'm here representing the city of Los
21 Angeles LEA.

22 I want to restate two points that I made in the
23 June 12th meeting before the Permitting and Compliance
24 Committee.

25 The city believes that the Waste Board staff's

1 position is incorrect in its June 10th Waste Board letter
2 indicating that the additional information provided by BFI
3 on the four-acre interface between the closed landfill and
4 the new landfill in the city portion. We believe that
5 completion of the design of the landfill liner, supporting
6 berms, landfill gas systems, leachate control systems, and
7 cover are critically important to the permitting process.
8 The reviews of these details are necessary to assure all
9 essential conditions are included in the proposed permit
10 and the JTD.

11 In summary, we feel that the application package
12 remains incomplete and incorrect even at this time. We
13 know that modifications are being made to that area. We
14 are awaiting technical drawings. We haven't seen them.
15 So that is our position. It is incomplete.

16 In regards to the adoption of the city and county
17 CEQA documents by the Board, I want to direct your
18 attention to the city's zone change ordinance specific to
19 the Sunshine Canyon Landfill. I have provided a handout
20 that describes one condition of approval in the mitigation
21 and monitoring reporting program, which has been adopted
22 as part of the Sunshine Canyon landfill CEQA requirements.

23 The MMRP requires full time inspectors on site
24 during all hours when waste is received and covered. The
25 MMRP also indicates that the monitoring agencies and

1 enforcement agencies are the CIWMB and the city of LEA.

2 I'm bringing this to your attention because of
3 recent comments from both the Waste Board staff and BFI on
4 the Sunshine Canyon Landfill's LEA's enforcement program
5 plan have indicated that staffing levels are excessive. I
6 want to assure you that the staffing levels are necessary
7 for the Sunshine Canyon LEA to fulfill its obligations
8 under city and county CEQA documents.

9 This staffing plan only continues the service
10 that we have been providing and is not excessive in terms
11 of manpower or cost. We do expect that there will be
12 economies of scale when the joint landfill opens and state
13 law, state regulation, and our JPA that was recently
14 signed between the county and city will only allow us to
15 recover costs that were actually incurred by both
16 programs. So costs are not excessive. The manpower
17 staffing levels are not excessive.

18 Thank you.

19 CHAIRPERSON BROWN: Thank you, Mr. Tsuda.

20 Any questions?

21 BOARD MEMBER CHESBRO: Madam Chair, would it be
22 appropriate to ask staff a question?

23 CHAIRPERSON BROWN: Yeah.

24 BOARD MEMBER CHESBRO: Is there any conflict
25 between the city having this in their ordinance and our

1 providing the LEA service? Are they able to direct the
2 level of inspection under state law through their local
3 ordinance?

4 PROGRAM DIRECTOR RAUH: Well, I think there are
5 two questions. I defer to legal with whether they can
6 direct us through their process.

7 But with respect to our ability to provide
8 necessary enforcement, surveillance, enforcement,
9 inspection services, we do have the capability to meet the
10 requirements under the Solid Waste Management Act.

11 CHAIRPERSON BROWN: Michael, do you want to
12 address the specifics about whether they can direct a
13 State agency in a local ordinance for CEQA.

14 STAFF COUNSEL BLEDSOE: Michael Bledsoe from the
15 Legal Office, Madam Chair.

16 It's our view with respect to the conditions
17 imposed in the land use entitlements from the city and
18 county when they approved the rezone and the conditional
19 use permit for the landfill that they imposed on their
20 local government agencies certain requirements to assure
21 that the landfill would operate in compliance with health
22 safety and welfare considerations under local ordinances.

23 So the LEA is identified in those use permits to
24 maintain full-time coverage at the landfill. Full time
25 inspection coverage. So it's our view that under those

1 local ordinances the LEA has the authority to continue
2 monitoring the landfill as they are doing now and as they
3 have been.

4 In adopting the mitigation, monitoring, and
5 reporting plans that both the city and county have
6 adopted, they also include as a mitigation measure that
7 full-time inspectors be at the landfill. So again, it's
8 our view those requirements city and county in approving
9 the land use entitlements imposed those mitigation
10 measures. So feel they have the authority to require that
11 kind of coverage.

12 But I would point out that staff believes that
13 it's important that mitigation, monitoring, and reporting
14 plans adopted by the local entities are followed. We do
15 not feel and it's not required under CEQA that the Waste
16 Board adopt a mitigation monitoring and reporting plan for
17 this facility for this project, because the Waste Board is
18 not imposing any additional conditions. So responsible
19 agencies that did not impose mitigation measures did not
20 have to adopt the mitigation monitoring and reporting
21 plan.

22 However, as we point out in the staff report,
23 because it is important these mitigation measures be
24 maintained that in the event the city and county LEA
25 refuse or for some reason are unable to provide ongoing

1 inspections services at the facility, staff would do that.

2 Thank you.

3 BOARD MEMBER CHESBRO: So I think you said that,
4 yes, the State will -- the LEA offered by the State
5 currently will meet that requirement and provide the
6 full-time inspection; is that correct?

7 STAFF COUNSEL BLEDSOE: That is correct. If the
8 LEAs cannot or will not do it.

9 BOARD MEMBER CHESBRO: Presumably that becomes
10 the decision of the JPA LEA once the authority moves back
11 to the local level.

12 STAFF COUNSEL BLEDSOE: That is correct. I'm
13 satisfied that the SCL LEA when designated would carry out
14 that function. That's what they propose in their EPP.

15 BOARD MEMBER CHESBRO: Thank you.

16 CHAIRPERSON BROWN: Thank you, Michael.

17 BOARD MEMBER PEACE: Let me ask a quick question
18 of Michael. In this thing we just got from the city of
19 Los Angeles, it says full-time inspectors. Who decides
20 how many inspectors? It could be two. It could be ten.
21 Who decides -- where it says full-time inspectors.

22 STAFF COUNSEL BLEDSOE: Well, I don't have that
23 document in front of me or the use permit conditions. But
24 my recollection from the mitigation and monitoring plan is
25 it's pretty vague. It just says full-time inspectors. So

1 it would be up to the lead agencies, the city and the
2 county in this case, to determine what is required.

3 The mitigation monitoring plan simply says, you
4 know, inspection services will be provided at the
5 landfill. I think it says during the time landfill
6 operations are occurring. So --

7 BOARD MEMBER PEACE: So when we're the EA, we
8 decide how many inspectors there's going to be? And when
9 we turn it over, they'll decide how many?

10 STAFF COUNSEL BLEDSOE: I think your question
11 having to do with should there be one inspector at the
12 site whenever landfill operations are occurring or more
13 than one inspector like, you know, let's say three
14 inspectors. Because the mitigation measure in the use
15 permit conditions are not more specific, the way that
16 would have to be interpreted is what is reasonable. So
17 one person full time during all landfill operations
18 certainly would be a reasonable interpretation. And that
19 is the way the city and county have interpreted that
20 provision to date.

21 So if the Waste Board ends up having to provide
22 those services, it would be reasonable for us to provide
23 one full-time staff person whenever the landfill is in
24 operation. And that turns out to be something like it's
25 70-odd hours per week. So it's almost two full-time

1 equivalent person. But it's one person at the landfill at
2 any one time.

3 BOARD MEMBER PEACE: So again when we're the EA,
4 we'll decide what is appropriate? And then when we turn
5 it over, then the new joint LEA will decide what's
6 appropriate?

7 STAFF COUNSEL BLEDSOE: Yes. Yes. And the Waste
8 Board has an oversight role in that question when the new
9 SCL LEA takes over. And then we have a role in evaluating
10 the proposed enforcement program plan.

11 But I have not heard anyone propose more than one
12 full-time person at the landfill doing those inspection
13 services.

14 CHAIRPERSON BROWN: And I think -- correct me if
15 I'm wrong. Once the determination about certification of
16 a new LEA -- the Sunshine Canyon Landfill LEA, once that
17 comes forward, these decisions and discussions will be at
18 that time; is that correct? Staffing level is evaluated
19 in the LEA process?

20 STAFF COUNSEL BLEDSOE: Yes. When the proposed
21 designation information package, which includes the EPP,
22 comes to the Board, yes, that is when we would discuss
23 staffing levels and other provisions in the EPP.

24 CHAIRPERSON BROWN: So I'm correct to assume then
25 that by that time you'll have adequate time to evaluate

1 their EPP and what may or may not be an appropriate
2 staffing level?

3 STAFF COUNSEL BLEDSOE: That's correct.

4 CHAIRPERSON BROWN: Okay. So I guess we'll have
5 another chance to review what's appropriate on that.

6 BOARD MEMBER PEACE: And then also in response to
7 some of the things that Mr. Tsuda brought up, he was
8 concerned that there were enough changes, that there's
9 changes in the berms and the liners. But as the EA right
10 now, aren't we making sure all that stuff is to code? And
11 should he have any concerns over those things he
12 mentioned.

13 SOUTH BRANCH PERMITTING & LEA SUPPORT MANAGER
14 MARKIE: The things that he mentioned are under the
15 purview of the Regional Water Quality Control Board, and
16 they are under review. And the operator is responding to
17 their requests and changes. And legally we're not the
18 lead agency for those.

19 BOARD MEMBER PEACE: So most of the things he
20 mentioned are the Water Board?

21 STAFF COUNSEL BLEDSOE: Yes. So the application
22 is complete and correct for Waste Board purposes as of
23 whatever that date was, May 6th, or whenever we made that
24 determination. And as we've notified the LEAs in writing.

25 CHAIRPERSON BROWN: Thank you. Wayne.

1 MR. TSUDA: I'd like to respond to the point
2 regarding this permit that you're considering today under
3 item 17, B7 it says, "Upon issuance this permit will
4 supercede in their entirety those certain solid waste
5 facility permit. Goes on to mention the city and county
6 permits. So what that means is that any obligation that
7 those two permits had will be carried forward with whoever
8 monitors the landfill until the new LEA is certified,
9 which would mean the Waste Board staff would have to do
10 that. So it's an immediate thing. It has to be covered
11 immediately.

12 CHAIRPERSON BROWN: Are you referring
13 specifically to the land use portions?

14 MR. TSUDA: I'm saying inspectional coverage of
15 the LEA or the EA because of the underlying CEQA
16 requirement, that that has been part --

17 BOARD MEMBER CHESBRO: I think the previous
18 question though indicated that those requirement would be
19 carried out even if they weren't in the state permit,
20 because the local land use decision required it and the
21 CEQA process required it that it shall happen.

22 MR. TSUDA: That's what I'm trying to reinforce.
23 It's going to happen immediately after this permit is
24 issued.

25 PROGRAM DIRECTOR RAUH: Madam Chair, would it be

1 appropriate for me to ask Mr. Tsuda since we directed a
2 letter to him asking if the city intended to continue its
3 obligation under its own CUP to carry out these
4 activities?

5 CHAIRPERSON BROWN: I think it's perfectly
6 appropriate since he's here.

7 Mr. Tsuda, can you respond to the correspondence
8 from our staff?

9 MR. TSUDA: Well, as far as the city LEA program
10 is concerned, we are going to follow whatever the city
11 requires us to do. However, we have received as recently
12 as yesterday a letter from Waste Board staff which had a
13 large contract associated with it, an MOU. And we are
14 evaluating that right now. They aren't prepared to
15 discuss whether or not that's acceptable to us.

16 CHAIRPERSON BROWN: But the question is if the
17 permit is issued today whether you're going to under your
18 own CEQA findings continue your operations as the LEA.
19 With or without an MOU, are you going to continue under
20 the city determination on CEQA to perform the LEA
21 function?

22 MR. TSUDA: We would do whatever we're legally
23 required to do.

24 CHAIRPERSON BROWN: Okay. So since this was
25 adopted by the city counsel, you intend to do that, and

1 the question of the MOU may continue?

2 PROGRAM DIRECTOR RAUH: Absolutely.

3 CHAIRPERSON BROWN: May not be necessary.

4 PROGRAM DIRECTOR RAUH: Well, certainly that
5 portion I don't think is necessary. The MOU that we
6 forwarded yesterday deals with the larger issue under the
7 law of the continuing relationship and isn't bound just on
8 this issue.

9 CHAIRPERSON BROWN: Thank you, Ted.

10 Michael.

11 STAFF COUNSEL BLEDSOE: Madam Chair, if I just
12 may make one point of clarification. The ongoing role of
13 the city and county LEAs after the Waste Board has
14 concurred in the new permit, their ongoing obligations
15 will arise under the local ordinances, the use permit, the
16 re-zone, and other local ordinances, and under the CEQA
17 document that their governing body adopted in approving
18 those land use entitlements. They will not function as
19 LEA at the site, because we are or will be the LEA at the
20 site. So they'll be functioning under their local
21 requirements.

22 CHAIRPERSON BROWN: Okay. Thanks, Michael, for
23 the clarification. That's very helpful.

24 We'll have an abundance of oversight.

25 Our next speaker is Fred Pfaeffle.

1 MR. PFAEFFLE: Good morning. Thank you for the
2 opportunity to address your Board. My name is Fred
3 Pfaeffle. I'm principle deputy county counsel with the
4 county of Los Angeles.

5 To address you on this matter, I want to just
6 address a few of the questions that have been raised.

7 I represent the county LEA. And I also represent
8 the Sunshine Canyon Landfill Local Enforcement agency
9 Joint Powers Authority formed the joint regulation.

10 First, I'd like to address the issue of the
11 memorandum of agreement or understanding that has been
12 discussed recently that Mr. Bledsoe referred to where
13 staff of the local agencies would be asked to perform some
14 functions on behalf of the state. And although we are
15 considering that, we have just barely received a term
16 sheet that we would have to look at.

17 One of the problems that I see is that the MOA
18 does strip the local agencies of authority and would
19 relegate us to enforcement -- it would strip us from the
20 authority to enforce state minimum standards. I just want
21 to make clear that. As local agencies, we may have
22 authority to enforce our local land use conditions.
23 There's no dispute over that. It's enforcement of the
24 state minimum standards that's an issue and whether we
25 would be relegated to an advisory capacity in that regard,

1 which is what I believe is being proposed.

2 I also want to address a few other issues. I
3 want to make clear what we're asking for is approval -- we
4 have a designation information package for our JPA -- new
5 LEA we want designated for the joint enforcement. And we
6 are asking for approval of the enforcement program plan
7 that will maintain what we view as the current levels of
8 enforcement that BFI has agreed to under its land use
9 permits. But also what we have been doing all these years
10 as two separate LEAs.

11 There is an objection by the operator that your
12 staff seems to be in agreement with that our budget is
13 inflated. We would be over staffing that. We strongly
14 disagree with that and urge your Board when doing the EPP
15 to kindly take a look at that issue and consider our
16 views, which I'm sure you will do.

17 I also want to address CEQA. We have a
18 disagreement with your legal staff we respectfully
19 disagreeing with Mr. Bledsoe's view. And I'd like to read
20 a statement into the record.

21 "The resolution concurring in issuance of the
22 permit that you propose to adopt today we feel does not
23 comply with CEQA for the following reason."

24 And I want to thank your legal staff because
25 there is a -- I just received a revised version of the

1 resolution that does address some of my concerns that I
2 had when I addressed you on the 12th in San Fernando when
3 it comes to CEQA. So I'm grateful for that. But it does
4 not go far enough in the following legal sense.

5 "CEQA requires the Waste Board to adopt a program
6 for monitoring or reporting on the changes required in the
7 project or made a condition of approval to avoid or
8 substantially lessen significant environmental effects."

9 And I'm relying on CEQA guidelines section
10 10596(h) and 15097(a). The Waste Board's resolution still
11 indicates that it is adopting the lead agency's findings
12 for each significant effect of the project to the effect
13 that changes or alterations were required in or
14 incorporated into the project which avoid or substantially
15 lessen the significant environmental effects as identified
16 in the EIRs.

17 The resolution also states that the Waste Board
18 is adopting the lead agency's Statement of Overriding
19 Considerations. However, the resolution does not indicate
20 it is adopting the lead agency's mitigation monitoring
21 program. And we do believe that that is a legal
22 requirement.

23 I want to go back to our objections to the
24 issuance of the joint permit. And in particular, I want
25 to be very clear as to what we are objecting to. And I'm

1 going to go back to the decision of this Board that it
2 adopted based on the hearing panel's May 13th decision.
3 And I'm just going to read a few passages. It says here,
4 "Even if no" -- this is what I believe your Board is
5 relying upon.

6 It says, "Even if no local land use approvals
7 have been granted at all in this case, Board staff would
8 have been required by law to act on the applications
9 submitted," referring to BFIs application for a joint
10 permit -- "because there exists no local enforcement
11 agency with jurisdiction to act on that application."

12 Further says on page 7, "On a number of occasions
13 the Board has issued a solid waste facility permit to
14 operators even though new or revised local land use
15 approvals have not been obtained by those operators."

16 And then the decision states on page 7, "The city
17 and county are not asserting that the existing city and
18 county LEAs would continue to exercise their enforcement
19 authority or their respected jurisdictional size."

20 We make clear we are asserting that we could do
21 exactly that until the new replacement LEA is certified.
22 Absent that, your Board would be creating an enforcement
23 void at the local level by superceding the existing
24 current permits, which is what we have an objection to.
25 And I tried to make that clear in our previous appeals.

1 So when our permits become invalidated by this new permit,
2 because --

3 CHAIRPERSON BROWN: Mr. Pfaeffle, with all due
4 respect, that was the determination and a decision on an
5 appeal before this Board. That determination has already
6 been finalized, and that is not the issue before us now.

7 We are talking specifically about the issuance of
8 a permit. So if you could direct your comments related to
9 the permit right now, that appeal and the determination by
10 the Board at that time is final. We're not reviewing
11 that, and it's not subject of debate for us today.

12 MR. PFAEFFLE: Thank you for clarifying what you
13 would be willing to consider. I'm just trying to lay the
14 groundwork for what I'm going to request specifically when
15 it comes to this permit and the language that is now
16 before us.

17 CHAIRPERSON BROWN: Well, just so that you
18 understand, we have all the documents that you're
19 referring to and you're reading in the record. So those
20 don't need to be reread into the record. You can
21 reference them or state them, but we have all the
22 documentation regarding the previous appeal and all of the
23 hearings on this permit. So just refer to them in your
24 request as substantiating what you're asking for rather
25 than reviewing the entire process, please.

1 MR. PFAEFFLE: Yes, of course.

2 On the 12th, I did place an objection on the
3 record that there is no effective local enforcement
4 mechanism in place. And our point is that there cannot be
5 one put in place unless the local agencies are given the
6 necessary enforcement authority, which is not being
7 proposed here.

8 So I'm going to conclude that we request
9 modification of item 17 B7 of proposed solid waste
10 facilities permit 19-AA-2000 to comply with our view of
11 the law. And that is to not invalidate the city and
12 county permits, but to respect them in place until the
13 city and county LEAs surrender their jurisdiction to the
14 newly formed LEA or alternatively BFI surrenders the
15 permits.

16 Otherwise, what is stated in the decision that I
17 read -- and this just to point out one issue which is your
18 Board states that the governing bodies play a principle
19 roll in the formation of landfills within our own
20 jurisdictions among other means through our conditional
21 use permit process. This assures that if the Waste Board
22 issues a solid waste facilities permit for a facility
23 which has not yet obtained local approval for formation,
24 the permit would in essence be for a landfill that does
25 not exist and would thus have no force or effect or

1 otherwise impact the jurisdictional authority of the
2 governing bodies. But that is precisely what is happening
3 in this case with the issuance of a permit and the
4 invalidation and supercedance of our permits --

5 CHAIRPERSON BROWN: Okay. Let me ask you a
6 question. You're asking us not to invalidate. So you
7 want three local enforcement agencies with jurisdiction
8 over one permit?

9 MR. PFAEFFLE: No. Not to invalidate our permit.
10 Issue this permit when the LEA becomes certified. Because
11 that is when there will be an existing landfill that you
12 can issue a permit for. Not before that.

13 By your own terms of your decision, there's a
14 landfill that does not exist. We are the land use
15 determination that would make that exist. We're telling
16 you that that determination has not been made until the
17 conditions have been met. So we feel that that issuance
18 of this permit is premature and violates the law in that
19 regard is our point.

20 CHAIRPERSON BROWN: Michael, I'm going to let you
21 respond to this or Steven Levine so I don't muddle through
22 it.

23 STAFF COUNSEL LEVINE: Thank you, Steven Levine,
24 staff counsel for the waste Board.

25 Keeping in mind that we don't become judge and

1 jury on conditional use permits and rezoning amendments,
2 the ball has always been in this city and county's court
3 either as the operator has indicated and may be the
4 case -- again it's not relevant to us. The city and
5 county have instructed the operator to diligently pursue a
6 new solid waste facility permit which had every intention
7 of supplanting the other permits, in which case the
8 Board's course is clear.

9 Or under the city and county's position, they
10 have not given that local land use approval to pursue a
11 solid waste facility permit, in which case the city and
12 county can block the operator from proceeding with this
13 combined case. And in which case, the permit we're
14 proposing today makes specifically clear if a court so
15 enjoins the combined operation, the original permits will
16 remain in place and the original LEAs remain in
17 enforcement mode.

18 CHAIRPERSON BROWN: Thank you for stating that
19 again for us. I think that's the second or third time
20 I've heard that. But I can't ever say it quite as clearly
21 as you do. Thank you.

22 STAFF COUNSEL BLEDSOE: If I can comment on the
23 CEQA comments that county counsel raised.

24 The Waste Board did not impose any mitigation
25 measures on this project. The Waste Board has adopted the

1 findings that the city and county adopted when they
2 approved the project some years ago. And responsible
3 agency has no obligation and in fact no ability to adopt a
4 mitigation monitoring and reporting program unless it
5 imposes mitigation measures on the project.

6 And if I could just quickly read you some of the
7 language of CEQA guidelines 15097(a) Mr. Pfaeffle sites,
8 "The public agency shall adopt a program for monitoring or
9 reporting on the revisions which it has required in the
10 project and measures it has imposed on the project to
11 mitigate or avoid significant environmental effects."
12 Deleting some language, "The lead agency, city and county
13 remain responsible for ensuring that implementation of the
14 mitigation measures occurs in accordance with the
15 program."

16 So since the Waste Board did not impose any
17 mitigation measures, we have not required any changes in
18 the project. We have no obligation and no ability to
19 adopt a mitigation monitoring program plan. So I
20 respectfully disagree with Mr. Pfaeffle's opinion.

21 And if I could briefly point out Subdivision H of
22 guideline section 15096 which Mr. Pfaeffle sites, which
23 provides, "The responsible agency shall make the findings
24 required in Section 15091 and 15093." 15091 relates to
25 all impacts of the project that can be mitigated down to a

1 level of insignificance, which findings we have adopted
2 expressly if our resolution, the county's mitigation
3 measures. And 15093 relates to significant overriding
4 considerations. And we're expressly recommending that the
5 Board adopt the county's findings and the city's findings
6 in their Statements of Overriding Considerations.

7 CHAIRPERSON BROWN: So in response to Mr.
8 Pfaeffle's question, they already possess the authority.
9 It resides with the city and county, the lead agency, to
10 enforce their own mitigation monitoring reporting system
11 and the existence of the facility regardless of the permit
12 that's issued today.

13 STAFF COUNSEL BLEDSOE: Correct.

14 CHAIRPERSON BROWN: Because those are land use
15 considerations that deal with the use permit.

16 STAFF COUNSEL BLEDSOE: That is correct.

17 CHAIRPERSON BROWN: Okay. Thank you. Just
18 clarify in layman terms other than legal terms what my
19 understanding is.

20 Okay. Did you conclude, Mr. Pfaeffle? I think
21 we responded to your request with a determination that you
22 already have the authority to do what you're asking us to
23 grant you to do.

24 MR. PFAEFFLE: I do disagree with that statement.

25 CHAIRPERSON BROWN: Well, that's really

1 surprising, because we're telling you you have the
2 authority and you're saying no you don't.

3 MR. PFAEFFLE: I thought I made clear what we're
4 discussing is our authority to inform State minimum
5 standards and not our land use authority. That nobody
6 disputes.

7 CHAIRPERSON BROWN: Michael, stand up and respond
8 to the specific request regarding his ability to enforce
9 State minimum standards.

10 STAFF COUNSEL BLEDSOE: Once the Waste Board
11 issues the new solid waste facilities permit and we are
12 the enforcement agency for the facility, it's the Waste
13 Board's responsibility to enforce State minimum standards
14 at the facility. The local enforcement agencies, unless
15 they enter an agreement with us, which we're trying
16 mightily to get them to do --

17 CHAIRPERSON BROWN: We have been.

18 STAFF COUNSEL BLEDSOE: Yes, and have been for
19 some time. You know, unless they enter into that
20 agreement with us, they will no longer have the duty to
21 enforce State minimum standards at the facility. That
22 will be the Waste Board's job as enforcement agency.

23 CHAIRPERSON BROWN: So the laymen's response to
24 Mr. Phaeffle's question is you have the ability to grant
25 what you're asking for by considering the MOU that was

1 submitted to you for consideration once the Board is the
2 LEA or to move diligently for the approval of the Sunshine
3 Canyon Landfill LEA, which we thought was being
4 contemplated for quite some time.

5 I mean, it is quite surprising to me that we've
6 spent so much time debating over all of these issues when
7 we have not been working as diligently to form the JPA and
8 the Sunshine Canyon LEA. I mean, we've been ready for
9 these things to move forward, and that would have
10 eliminated all of these discussions today regarding who's
11 the lead agent, who's the one that's going to enforce
12 State minimum standards if only had the JPA formed when we
13 thought it was going to be formed and when we thought
14 there was going to be an application for an LEA and an
15 EPP.

16 MR. PFAEFFLE: Thank you for making those
17 statements. I have been working diligently on a joint LEA
18 JPA for years. And then there came a time when your staff
19 told us what you have been working for years is no good
20 because we want a different format. We want a JPA. We
21 will not accept what you've been working on all this time.
22 And we worked I can't believe how hard and how fast these
23 two very large agencies got together to submit a
24 designation information package, which your staff has and
25 is in full control. We have no longer -- it's not -- the

1 ball is not in our court.

2 CHAIRPERSON BROWN: When was it submitted?

3 MR. PFAEFFLE: We have submitted various
4 iterations of that throughout the many months since we've
5 been working on this. And what it comes down to is this
6 disagreement that the operator has placed on the record
7 they feel that what we're doing now jointly they want
8 economies of scale that are even greater than what we're
9 proposing. So if that holds it up, that will be
10 unfortunate. But I don't have all the technical
11 information in front of me. But I hope that's not the
12 case. And I'm urging this Board to move quickly on that.
13 And I appreciate the fact that your staff has been working
14 hard on this.

15 CHAIRPERSON BROWN: We have been and we have been
16 moving as diligently as the materials have come to us. So
17 we do need to ensure that in our ability to review these
18 documents, we have the same time ability to look at them
19 and ensure their accuracy and that we are providing for an
20 enforcement agency for the combined Sunshine Canyon
21 Landfill that will fulfill all the requirements that we
22 have.

23 We're not going to rush through our portion of
24 the process when it's taken months to get the application
25 to us. We have a due diligence to do on our side as well.

1 So you need to give us the same consideration
2 that we've been giving the city and county to work through
3 their process with the appropriate time and oversight. So
4 we will work diligently. And our staff has said they will
5 ensure they are working diligently through to certify the
6 Sunshine Canyon joint LEA. But we have an obligation to
7 the citizens in your city and county and to the State of
8 California to do the appropriate review of this
9 application.

10 MR. PFAEFFLE: And I thank you for that.

11 CHAIRPERSON BROWN: Let me let Ted respond to
12 your question, because I think that he has some input as
13 well.

14 MR. PFAEFFLE: I'll just ask for another minute
15 afterwards to respond to the other question that I was
16 going to respond to.

17 CHAIRPERSON BROWN: Ted.

18 PROGRAM DIRECTOR RAUH: Yes. Thank you, Madam
19 Chair.

20 I would advise the Board that we have received
21 and provided comment on no less than seven different
22 drafts with the EPP and made very detailed comments on
23 each one to facilitate the city/county efforts. And
24 without getting into a great story discussion here, I
25 think the staff's efforts as well Board suggestion and

1 guidance go back at least four years on this issue. So
2 there has been an extensive effort over that time period
3 to provide the city and county with detailed information
4 as to what's required under the law and what's necessary
5 to meet your standards.

6 With that said, the staff has completed its
7 review of the formal submittal. And despite the fact we
8 have 45 days to complete that review, a letter went out
9 under my signature just this morning that will provide the
10 city and county joint LEA with the sufficient guidance to
11 be able to correct the remaining deficiencies and provide
12 a document that we can take forward to you. We're hoping
13 to be able to do so for the July Board meeting, which in
14 looking at our regulation is perhaps three months earlier
15 than what would normally be expected. That's the
16 commitment I believe that you have set for us and that we
17 are continuing to provide in this area.

18 CHAIRPERSON BROWN: Thank you, Ted, very much.

19 Do you have one more comment.

20 MR. PFAEFFLE: Thank you to your staff. We
21 appreciate those efforts. I just want to address the last
22 issue.

23 There is an agreement that's being proposed. And
24 what we seek is not simply the responsibility to carry out
25 the Waste Board's duties, but if in fact I have commitment

1 from this Board to give us the authority during this
2 pendency period until we become certified, I think that
3 would go a long ways. Thank you.

4 CHAIRPERSON BROWN: Michael.

5 STAFF COUNSEL BLEDSOE: Nothing to add, Madam
6 Chair. Thank you.

7 CHAIRPERSON BROWN: Questions? Comments?

8 BOARD MEMBER PEACE: Who is going to be the LEA
9 in the interim before we certify the new?

10 CHAIRPERSON BROWN: We need to close the loop on
11 Mr. Phaeffle's question.

12 PROGRAM DIRECTOR RAUH: Well, we will be -- once
13 the Board approves -- if the Board approves the permit,
14 the staff will be the LEA for that facility until such
15 time as the Board takes steps to certify the combined LEA.
16 And staff's prepared to carry out that responsibility.

17 BOARD MEMBER PEACE: We're looking at that maybe
18 at the most being like a month?

19 PROGRAM DIRECTOR RAUH: If in fact the city and
20 county LEA are capable of responding to our comments so
21 that we can bring you a proposal in July and you approved
22 it, that's correct, it would be basically the July Board
23 meeting, at which point the new combined city/county LEA
24 would be the LEA for this site.

25 CHAIRPERSON BROWN: And we're perfectly capable

1 of providing the oversight that's needed?

2 PROGRAM DIRECTOR RAUH: Yes, we are.

3 CHAIRPERSON BROWN: Gary.

4 BOARD MEMBER PETERSEN: Madam Chair, thank you.

5 I cannot support this permit for the Sunshine
6 Canyon combined landfill in good conscious. My concerns
7 are not about the conditions in the permit, but about the
8 path we've all followed to arrive on our decision today.

9 The Legislature established a process for issuing
10 solid waste facility permits at the local level with
11 concurrence by our Board. Yeah, as a consequence of
12 gamesmanship by the operator, political inertia by the
13 city and county of Los Angeles, the permit is about to be
14 issued by the State. It didn't have to be that way.

15 The success of my recycling business, which for
16 the record I no longer own, depended on personal
17 relationships with people in Los Angeles city and county
18 governments, with my competitors in the private recycling
19 and waste industries, and with leaders in the community I
20 serviced. I know all the players in the game. Sure, this
21 is a process that was legal and the permit is okay. So I
22 haven't the grounds to vote against it. But I don't have
23 to vote for it either.

24 Thank you, Madam Chair.

25 CHAIRPERSON BROWN: Any other questions?

1 BOARD MEMBER MULÉ: Madam Chair, if I could
2 just -- if you'll indulge me just to reiterate a few
3 comments I made at last Thursday's special committee
4 meeting.

5 CHAIRPERSON BROWN: Yes.

6 BOARD MEMBER MULÉ: Thank you.

7 As you mentioned and I think all three of us on
8 the Committee mentioned that this permit application has
9 been one of the most vetted and scrutinized permit
10 applications if not in the state, in the entire country.
11 And I can speak to that, because I have worked in other
12 parts of the country where I've observed and been a part
13 of some controversial permits.

14 I also just want to reiterate the fact that I do
15 not agree with some of the comments that Board Member
16 Peace made. I don't think this process has been gamed. I
17 think this has been a completely legal and fair process.

18 And also I just want to reiterate that our
19 authority is limited by the operation of the permit.

20 Oh, Petersen. I'm sorry. Sorry, Cheryl. Sorry.
21 I didn't mean to do that. Thank you for the correction.

22 And again, we all agree that the city and the
23 county has the authority over their local land use issues.
24 I mean, there is no question about that. And as Steve
25 Levine stated earlier, you still, city and county, have

1 the authority to block the operation of this facility via
2 your land use approvals.

3 And then also I just want to reiterate the fact
4 that we all stated too that last week that we want this
5 joint LEA to be approved as quickly as possible. And we
6 too here at the Board have been extremely frustrated by
7 the inertia and the lack of progress that has been made
8 given the fact that this process to develop and approve
9 this joint LEA has gone on for years and years and years.

10 And so I'm hoping that after today we can
11 expedite this process. You can get your EPP into us. It
12 will be approved as I stated last week. Our staff has
13 been working very hard and actually a lot quicker than we
14 all had hoped or we all expect to get this joint LEA
15 approved. We want to turn the enforcement authority back
16 over to you at the local level. We don't want to be in
17 this situation. But by law, we are here. So let's all
18 work together to get this done as quickly as possible and
19 move on. Thank you.

20 CHAIRPERSON BROWN: Cheryl, do you have anything?

21 BOARD MEMBER PEACE: No. I agree with Board
22 Member Mulé.

23 CHAIRPERSON BROWN: I agree. I think there was a
24 lot said last Thursday. And I'm not going to reiterate
25 everything that you said, because I think it was somewhat

1 lengthy.

2 But it didn't have to be this way. But not for
3 lack of faith and diligence and cooperation and hard work
4 by our staff as well as the city and county. I appreciate
5 your continued diligence in the process, the length of
6 time allowed for a thorough review of the application and
7 of CEQA. And it's a reflection of our deference to the
8 local authorities in this whole process. But we are where
9 we are, and we continue to work diligently to get the
10 joint LEA.

11 And as I said last Thursday, there has to be some
12 predictability in this process. And we have to ensure
13 that we do that in the issuance of permits. So look
14 forward to working with you -- continueing to work with
15 you to certify the joint LEA and move forward with that as
16 quickly as we can. And with that, I will --

17 BOARD MEMBER CHESBRO: Madam Chair, I just want
18 to say I'm satisfied with the responses to the concerns
19 raised by the city and county. And I concur with Board
20 Member Mulé's comment about the desireability from the
21 Board's standpoint to have a local LEA certified. And I
22 think that's -- I would guess. I can't speak for
23 everybody. But that's a good chance that's a unanimous
24 position of the Board. And I think a lot of our staff
25 feel the same way if not all of them. So let's hope it

1 gets done posthaste.

2 CHAIRPERSON BROWN: Exactly. Thank you.

3 Can I have a motion?

4 BOARD MEMBER MULÉ: Madam Chair, I'd like to move
5 Resolution 2008-107 Revised.

6 BOARD MEMBER PEACE: Second.

7 CHAIRPERSON BROWN: It's been moved by Member
8 Mulé and seconded by Member Peace.

9 Kristen, can you call the roll.

10 EXECUTIVE ASSISTANT GARNER: Chesbro?

11 BOARD MEMBER CHESBRO: Aye.

12 EXECUTIVE ASSISTANT GARNER: Mulé?

13 BOARD MEMBER MULÉ: Aye.

14 EXECUTIVE ASSISTANT GARNER: Peace?

15 BOARD MEMBER PEACE: Aye.

16 EXECUTIVE ASSISTANT GARNER: Petersen?

17 BOARD MEMBER PETERSEN: Abstain.

18 CHAIRPERSON BROWN: Brown?

19 CHAIRPERSON BROWN: Aye.

20 The resolution passes. And I thank you all.

21 Thank you, staff, legal staff, permit staff. City and
22 county, thank you very much.

23 And we will move next to our next item on the
24 agenda -- actually, let's take a five-minute break. We'll
25 give the reporter a five-minute break.

1 (Thereupon a recess was taken.)

2 CHAIRPERSON BROWN: We will call this meeting
3 back to order. We have decided to take Item 22 in advance
4 of Item 15. So we will move quickly to Howard Levenson
5 for presentation of Item 22.

6 PROGRAM DIRECTOR LEVENSON: Thank you, Madam
7 Chair. And I appreciate you taking this out of order.

8 This is the item for consideration of the RMDZ
9 Revolving Loan Program application for Crown Policy, Inc.
10 This is request for a loan for \$730,000.

11 Staff has recommended this loan be approved and
12 Board adopt Resolution 2008-81 based on its past
13 implementation of the loan eligibility criteria.

14 And I do want to commend staff for their work on
15 that item. But staff understands that this particular
16 item has numerous policy implications. So we respectfully
17 await your determination about this request.

18 That concludes my presentation.

19 CHAIRPERSON BROWN: Thank you, Howard. Any
20 questions regarding this application? Do we move it,
21 second it and then vote?

22 BOARD MEMBER PEACE: Can I make a comment?
23 Everybody probably knows how I feel.

24 CHAIRPERSON BROWN: Please do.

25 BOARD MEMBER PEACE: But just because we don't

1 have a policy in writing, you know, against giving loans
2 to companies to produce more plastic bags, I feel like I
3 can't vote for this. It would be a bad decision to
4 approve a loan for something that causes so much
5 environmental devastation. AB 2449 passed in 2006. AB
6 2829 was introduced this year. And in both these bills
7 show the Legislature's intent to reduce the use of
8 plastics single use carry-out bags. And for that reason,
9 I don't think the Board should support the promotion of a
10 business that produces more plastic bags. I believe it's
11 contrary not only to the goals of the statute, but also to
12 the goals of the Board. Those are my comments.

13 CHAIRPERSON BROWN: Thank you, Cheryl.

14 BOARD MEMBER PETERSEN: Madam Chair, I concur
15 with Member Peace's comments.

16 CHAIRPERSON BROWN: Okay. Do we deny the
17 resolution? Do we not vote on the resolution? Or do we
18 take the motion and then vote to deny? How procedurally --
19 I don't believe that we have enough votes to seek the
20 motion or to concur on the --

21 CHIEF COUNSEL BLOCK: I apologize, because I
22 missed the very minute first here. Was there a motion
23 that was made?

24 CHAIRPERSON BROWN: That's not a motion.

25 CHIEF COUNSEL BLOCK: There can be a motion made

1 by any member of the Board either to approve the
2 resolution or disapprove of it or can be no action.

3 CHAIRPERSON BROWN: Okay.

4 CHIEF COUNSEL BLOCK: And then the consequences
5 would proceed.

6 CHAIRPERSON BROWN: Okay.

7 CHIEF COUNSEL BLOCK: And if there were no
8 motion, it would die.

9 CHAIRPERSON BROWN: Can I have a motion to deny
10 the application?

11 BOARD MEMBER PETERSEN: So moved.

12 BOARD MEMBER PEACE: Second.

13 CHAIRPERSON BROWN: It's been moved by Member
14 Petersen, seconded by Member Peace.

15 Kristen, can you call the roll on a motion to
16 deny the application to Crown Poly?

17 EXECUTIVE ASSISTANT GARNER: Chesbro?

18 BOARD MEMBER CHESBRO: Aye.

19 EXECUTIVE ASSISTANT GARNER: Mulé?

20 BOARD MEMBER MULÉ: Aye.

21 EXECUTIVE ASSISTANT GARNER: Peace?

22 BOARD MEMBER PEACE: Aye.

23 EXECUTIVE ASSISTANT GARNER: Petersen?

24 BOARD MEMBER PETERSEN: Aye.

25 EXECUTIVE ASSISTANT GARNER: Brown?

1 CHAIRPERSON BROWN: Aye.

2 The loan is denied. And I think Member Peace's
3 comments speak for general consensus.

4 PROGRAM DIRECTOR LEVENSON: Just for the Board's
5 notification, we will bring this issue up to you as part
6 of the upcoming criteria item so we can have that as an
7 official policy determination as well.

8 CHAIRPERSON BROWN: Great. Thank you, Howard.

9 BOARD MEMBER CHESBRO: Madam Chair, not to turn
10 it into too large of a discussion, but I think it would be
11 important to try to not just very, very narrowly address
12 this one project, but rather try to think in terms of the
13 hierarchy or some sort of framework. Because we could do
14 it to preclude this kind of project in the future and then
15 six months from now it could be something else that seemed
16 pretty out of line with the Board's overall priority. So
17 some sort of broader approach.

18 It could also -- I'm just thinking out loud. It
19 could also say that loans have to also comply with the
20 Board's other identified priorities or policies. Or some
21 mechanism so that we have a framework for this rather than
22 it just being an ad hoc case by case basis.

23 CHAIRPERSON BROWN: Rather than product by
24 product make it more of like our framework approach to
25 review of products and align with our priorities.

1 BOARD MEMBER PETERSEN: Or like we've been doing
2 in the framework of our EPR.

3 CHAIRPERSON BROWN: Okay. Great. Thank you for
4 raising that.

5 Howard, thank you very much.

6 Now we'll move next to Ted Rauh and Bill Orr for
7 consideration of Item 15.

8 PROGRAM DIRECTOR RAUH: Yes, Thank you, Chair
9 Brown and Board members.

10 This item is a continuing presentation to you
11 requesting direction to begin development of regulatory
12 language as part of the proposed Phase 2 rulemaking
13 efforts necessitated by the legislative direction in AB
14 2296.

15 And during the Committee hearing, we had I think
16 a very thorough discussion of a number of the options and
17 also some additional ideas proposed by stakeholders.
18 Today staff has attempted to take the concepts it has
19 presented to you at the Committee meeting and to the
20 stakeholders in other forums and put those into areas
21 where we feel perhaps there's more certainty and those
22 that are more ready to move forward with regulatory
23 language development.

24 And here to present that, as you indicated, is
25 Bill Orr. So Bill.

1 (Thereupon an overhead presentation was
2 presented as follows.)

3 DIVISION CHIEF ORR: Thank you, Ted. Good
4 morning, Board members.

5 --o0o--

6 DIVISION CHIEF ORR: For the record, my name is
7 Bill Orr. I'm Chief of the Cleanup, Closure, and
8 Financial Assurances Division.

9 Based on the testimony at last week's Committee
10 meeting, staff believes we've been able to distill down
11 that extensive presentation and the testimony that was
12 received into three short slides.

13 What we've done is actually broken things down
14 into three groupings of items that could be included in
15 the Phase 2 rulemaking.

16 --o0o--

17 DIVISION CHIEF ORR: Three short slides.

18 The first grouping is what we're describing as
19 less controversial items. And staff believes based on the
20 testimony received and feedback provided that we're
21 actually ready to develop language and bring that back to
22 the Board for rulemaking direction in August.

23 We've actually polled the 2296 consulting group.
24 And as of this morning, we've got sort of the tally from
25 stakeholders. Received eight responses so far. Those

1 items include: A five-year postclosure maintenance review
2 for the sites that do not have closure permits currently;
3 the submittal of as-built costs; basically a closure
4 certification submittal report deadline; amendments to the
5 assurance provisions that would exclude guaranteed
6 investment contracts or GICs, and finally, the
7 standardization of a pledge of revenue form. As you can
8 see from the numbers up there, the vast majority of folks
9 feel we're ready to proceed to develop language on that.

10 --o0o--

11 DIVISION CHIEF ORR: The second category where
12 staff believes that we're close and that with the 2296
13 consulting group that we're ready to explore regulatory
14 language and bring that back to the Board in August for
15 additional rulemaking direction. That would include:

16 The reasonable postclosure maintenance
17 contingency which seems to be settling in around ten
18 percent.

19 Grand fathering closed sites for the postclosure
20 maintenance contingency and possibly the financial
21 assurance requirements depending on which option the Board
22 ultimately gets direction on.

23 Expanding the use of the reasonably foreseeable
24 corrective action financial assurance demonstration to
25 include non-water corrective actions.

1 To formalize the cost estimating dialogue to add
2 additional language dealing with premature closure, the
3 maximum extent of closure, and possible items that would
4 be required for a closure.

5 And then finally in this group, that there would
6 be no anticipated reduction in postclosure maintenance
7 costs before they're actually documented.

8 So that's group two.

9 And then the third group, next slide.

10 --o0o--

11 DIVISION CHIEF ORR: Group C are the big picture
12 items. And staff would continue to explore these with the
13 AB 2296 consulting group and bring them back to the full
14 Board in July for further direction. And that includes
15 actually some additional proposals that were made at the
16 Committee meeting last week and that has been subsequently
17 received from the L.A. sanitation districts.

18 Also further direction on how to extend
19 postclosure maintenance beyond 30 years. The mix of
20 individual financial assurance and/or pooled fund options
21 and ultimately how much should be included under those
22 various mechanisms. So under these, we actually have --
23 if we go to the next slide --

24 --o0o--

25 DIVISION CHIEF ORR: We have a workshop scheduled

1 for tomorrow. We would look at the Group A items as part
2 of that. We'd also discuss the Item C, begin the
3 discussion on that. We have another workshop scheduled
4 for July 17th. We would continue the discussion on all
5 three groupings. At that workshop with the intention on
6 coming back to the full Board next month in July for
7 additional direction on the Group C items. Then we
8 currently would plan to bring back a proposal for
9 initiating the formal rulemaking process in August.

10 And that concludes my presentation and would be
11 happy to answer any questions.

12 CHAIRPERSON BROWN: Very nice, Bill. Thank you
13 very much. Nice and concise. I'm sure we have some
14 questions.

15 We do have at least one speaker. Glenn Acosta,
16 you're up first.

17 Mr. ACOSTA: Good morning, Madam Chair and Board
18 members. I'm Glenn Acosta with the Sanitation Districts
19 of Los Angeles County.

20 And I just wanted to express our appreciation for
21 allowing more time to look at the various options, because
22 we still remain concerned about the possibility of
23 multiple layers of financial assurance. And we of course
24 believe that's not necessary in light of -- you look at
25 the risk across the state. So, you know, allowing more

1 time here is really greatly appreciated.

2 So I'll withhold any or comments, because until
3 other things start developing. Thank you.

4 CHAIRPERSON BROWN: Thank you, Glenn.
5 Chuck White.

6 MR. WHITE: Thank you, Madam Chair. Chuck White
7 with Waste Management.

8 Just like Glenn said, we appreciate having more
9 time to work on some of these details. The Waste
10 Management is supportive of AB 2866, the De Leon bill,
11 which one of the provisions is to create a state trust
12 fund, which we hope if enacted and adopted would alleviate
13 some of the concerns of this staff and the Board related
14 to making sure this Board -- it's really not a pooled
15 fund. It's really a trust fund this Board could use to
16 step in and take care of any owner/operator's inability to
17 respond to a corrective action or postclosure care during
18 this postclosure care period. And we believe this really
19 does go a long way to address many of the multiple
20 concerns that have been raised.

21 We don't believe there is a need for excessive
22 contingency funds or a significant departure from Subtitle
23 D that allows an approved state to be able to adjust the
24 postclosure period as necessary to protect human health
25 and the environment.

1 Waste Management as others are concerned that
2 there there seems to be this continued desire to decrease
3 the flexibility of the financial assurance mechanisms that
4 are available to us or access to those mechanisms and
5 duplicative and overlapping requirements and increased
6 cost on individual facilities for extremely unlikely
7 events.

8 So we really appreciate the time to continue
9 working and discussing these issues and look forward to
10 the meeting and discussion tomorrow, which I'm sure some
11 of these issues will come up. And we'll be back before
12 the Board to discuss these in July and August. Thank you.

13 CHAIRPERSON BROWN: Thank you, Chuck.

14 Rachel Oster.

15 MS. OSTER: Good morning, Madam Chair, member of
16 the Board. My name is Rachel Oster with NorCal Waste
17 Systems. I'll keep it short in light of staff allowing us
18 some more time to go over these issues.

19 Certainly we, too, are concerned about the
20 layering of multiple mechanisms and we are supportive of
21 the pooled fund similar to what Chuck was discussing. So
22 we look forward to working with staff. Thank you.

23 CHAIRPERSON BROWN: Thank you, Rachel.

24 Anybody else want to speak? Well, I know Kristen
25 is getting her workout. Chuck.

1 MR. HELGET. Madam Chair, members of the Board.

2 Very briefly -- Chuck Helget for Allied Waste.

3 Register for our support for a trust account or

4 pooled fund. We think moving forward with AB 2286 is a

5 strong statement, and we'll put a strong mechanism in

6 place that will then allow us to accomplish some of the

7 other goals that are laid out and perhaps group C.

8 So with that, we're doing everything that we can

9 diligently to move that bill forward working with your

10 staff and hopefully get the Board in a position to support

11 the bill. Thank you.

12 CHAIRPERSON BROWN: Thank you, Chuck.

13 Questions, comments?

14 BOARD MEMBER PETERSEN: Madam Chair, I'd just

15 like to thank the staff for breaking this out and making

16 it so I'm not so dizzy trying to figure out what's going

17 on here. This is great. I really appreciate it. Thank

18 you.

19 CHAIRPERSON BROWN: Rosalie.

20 BOARD MEMBER MULÉ: Madam Chair, thank you. I

21 also want to thank staff for getting this organized,

22 because there are so many issues here that we need to

23 address.

24 And again as I stated last week, we have

25 accomplished a lot or you all in working group have

1 accomplished quite a bit. And I just wanted to make sure
2 that, you know, we all recognize what has been
3 accomplished in the last six, eight months that you've
4 been meeting as a group.

5 I do have a question. So on Group B, those items
6 will continue to be discussed as well, Group B items?

7 DIVISION CHIEF ORR: That would be correct. I
8 think the difference between Group A and Group B is for
9 Group A, I think we pretty much can come out with language
10 right away. With Group B, we probably need to discuss it
11 more tomorrow and then come out with some language based
12 on that for further discussion in July.

13 BOARD MEMBER MULÉ: Thank you.

14 CHAIRPERSON BROWN: Thank you, Bill.
15 Cheryl.

16 BOARD MEMBER PEACE: I just had a question of the
17 two Chucks, because both of them said they would support a
18 pooled fund. And then you talk about the bill over in the
19 Legislature, is there a cap on how much that pooled fund
20 would be? Is it 50 million or --

21 CHAIRPERSON BROWN: Currently.

22 MR. WHITE: Chuck White with Waste Management.
23 Currently, there's a 50 million. That would be built up
24 to 50 million. And if it's not used, then the amount of
25 fee could be reduced or diverted for other purposes.

1 But, you know, that's open for discussion. I
2 mean, we would be happy to discuss whatever the Board
3 thinks would be appropriate level for building a fund up
4 to.

5 We really think the fund is -- we don't
6 anticipate it's ever going to be used for any waste
7 management facilities that we currently own or operate.
8 You know, so we don't think it's ever going to be used.
9 But we understand the concern that it might be necessary
10 to have. So we certainly support it being there.

11 BOARD MEMBER CHESBRO: Chuck, I encourage you to
12 find the operator who would say we do anticipate it would
13 be used. Not to apply anything about Waste Management.

14 MR. WHITE: There have been situations and there
15 have been situations where this problem has occurred on
16 landfill owners that the single major asset of those
17 landfill owners is the landfill. And once the landfill
18 closes, they have no way of getting additional revenue.
19 And the staff has pointed that out time and time again.

20 There's also the issue I suppose that a landfill
21 could be -- that Waste Management might own or someone
22 might own be sold to a third party at some point in time.
23 And does that third party have adequate assets. That
24 certainly warrants some further discussion. But in
25 today's world, we think it's very difficult for someone to

1 transfer a landfill.

2 BOARD MEMBER CHESBRO: I was teasing you.

3 MR. WHITE: And I appreciate that. But I
4 certainly want to take the opportunity to further express
5 our desire to work with this Board on responding to any
6 concerns you might have. Appreciate the teasing. Thanks.

7 BOARD MEMBER PEACE: So we are going to --

8 CHAIRPERSON BROWN: Currently, it is still under
9 consideration in the Legislature whether there is a cap,
10 where the cap will be, and what's appropriate. I'm sure
11 they will seek our guidance.

12 BOARD MEMBER PEACE: There's a real big
13 difference in opinion what it should be. Don't we have a
14 model that indicates unfunded liability is like 660
15 million by 2050 and 3.4 billion 100 years from now?

16 These are all the things you're going to try to
17 bring together in these workshops?

18 DIVISION CHIEF ORR: Just a quick answer on that.
19 The scenarios that we presented last week include a
20 variety of exposures, but then also estimated default
21 rates depending on which option. So the system costs
22 would be on the order of \$5.8 billion over the 100 year
23 period. The expected default rates would be different
24 than that depending on which options the Board was
25 interested in pursuing.

1 CHAIRPERSON BROWN: It looks like --

2 BOARD MEMBER PEACE: In this pooled fund, are you
3 contemplating you would always be at 50 million? So at 50
4 million we needed five million that year to help some
5 landfills? Then that --

6 MR. HELGET: It's a 50 million cap on the
7 collection of the fee. But once that 50 million is in the
8 fund, you're going to be earning interest and money off of
9 that fund. So that fund is anticipated to grow over time
10 just as the liability would grow. And I believe that the
11 numbers the 600 million numbers -- correct me if I'm
12 wrong -- but that's unfunded liability if everybody went
13 belly up.

14 CHAIRPERSON BROWN: Failed immediately at the
15 same time.

16 CHAIRPERSON BROWN: Okay. We have one more
17 speaker. Herman Robbins. We're happy you're here. I
18 meant -- sorry. Thank you for being here.

19 MR. ROBBINS: Thank you for taking the time to
20 hear me. And to the Board members, thank you for just
21 giving me this time.

22 My name is Herman Robbins. I'm with Kern County
23 Waste Management Department. We have sent a letter to the
24 Board on how Kern County feels about the proposals. And
25 one of the items that we were strongly opposing was the

1 pooled fund. And specifically, county counsel has made
2 comments within the letter that we've sent to the Board.
3 And specifically it was saying that State constitution
4 prohibits local government from making gifts to public
5 funds to any individual or corporation. And it says
6 taxpayers may argue that giving public funds, whether
7 general funds from partial fees or enterprise funds, to
8 private landfill owners constitute a prohibited gift to
9 public funds.

10 And it is our opinion that by creating this
11 pooled fund we may be creating a fund to bail out those
12 private businesses that may have defaulted. And for that
13 reason, Kern County was against the pooled fund concept.

14 Furthermore, we felt that the existing
15 regulations in place as they are, we thought they were
16 very good. And if we could just maybe beef those
17 regulations up, we would not have the problem that
18 basically precipitated this discussion proposals.

19 But at the same time, we will continue to work
20 with the State. We're happy to be given the opportunity
21 to come in and comment. And just want to thank the Board
22 for that. Thank you.

23 CHAIRPERSON BROWN: Thank you very much for being
24 here. I'm sure that you'll respond to his letter. And
25 since the pooled fund is not part of this group, that's

1 moving forward it's going to continue to be discussed
2 anyway.

3 DIVISION CHIEF ORR: Yes. We haven't received a
4 copy of the letter. So maybe I can get a copy of that.

5 CHAIRPERSON BROWN: Mr. Robbins, can you ensure
6 that we get a copy of that letter? Because staff has not
7 seen it yet, and I don't know if we've gotten it.

8 MR. ROBBINS: Okay.

9 CHAIRPERSON BROWN: We would appreciate the
10 input.

11 But I think that Mr. Herman did touch on
12 something. You know, the wisdom -- in my opinion, the
13 wisdom of 2296 actually called us to look at the current
14 system and analyze the current system and where the system
15 is now and any possible or potential improvements to our
16 system.

17 And as Member Mulé already mentioned, we haven't
18 accomplished a lot in the stakeholder process. We have a
19 very open stakeholder process which has informed us to
20 where we are today. And we should be enthusiastic about
21 the opportunity to look at a system that is probably the
22 best system in the country for landfill oversight here in
23 California.

24 So I encourage the stakeholders to continue your
25 participation in this process. I want to thank staff very

1 much. I know it's been a long process. But that's what
2 the Waste Board's become known for is our involved and
3 informed stakeholder process and how it makes what we do
4 as good as I believe it is.

5 So as we move forward, continue the
6 deliberations. And I appreciate you really calling out
7 those things that we have accomplished over the last year.
8 And let as move those things where we have consensus and
9 continue to work on the Group B things and the Group C
10 things as 2296 asked us to do. So anyway, thank you very
11 much.

12 BOARD MEMBER PEACE: I just wanted to say I want
13 to thank you, Bill, and your staff for breaking that all
14 down. And you made it a lot easier. And actually I agree
15 with everything the way you broke everything down.

16 CHAIRPERSON BROWN: Can I have a motion?

17 BOARD MEMBER MULÉ: Is it motion or direction?

18 CHIEF COUNSEL BLOCK: It's requests for
19 direction.

20 CHAIRPERSON BROWN: So I guess we will provide
21 direction for you to develop the draft for Group A and
22 continue the stakeholder process in Group B and C. Okay.
23 And we'll see you in July -- or tomorrow. Thank you.

24 Now the Board will -- that concludes our regular
25 business. And I believe we do have a closed session.

1 (Thereupon the California Integrated Waste
2 Management Board recessed into closed session
3 at 11:16 a.m.)
4 (Thereupon the California Integrated Waste
5 Management Board adjourned closed session
6 at 11:55 a.m.)

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1 CERTIFICATE OF REPORTER

2 I, TIFFANY C. KRAFT, a Certified Shorthand
3 Reporter of the State of California, and Registered
4 Professional Reporter, do hereby certify:

5 That I am a disinterested person herein; that the
6 foregoing hearing was reported in shorthand by me,
7 Tiffany C. Kraft, a Certified Shorthand Reporter of the
8 State of California, and thereafter transcribed into
9 typewriting.

10 I further certify that I am not of counsel or
11 attorney for any of the parties to said hearing nor in any
12 way interested in the outcome of said hearing.

13 IN WITNESS WHEREOF, I have hereunto set my hand
14 this 24th day of June, 2008.

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22 TIFFANY C. KRAFT, CSR, RPR

23 Certified Shorthand Reporter

24 License No. 12277

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